



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,443	07/30/2003	Jerry E. Bandstra	2-5169-049	9315

803 7590 08/25/2004

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

EXAMINER

KOVACS, ARPAD F

ART UNIT PAPER NUMBER

3671

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,443

Applicant(s)

BANDSTRA ET AL

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/19/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

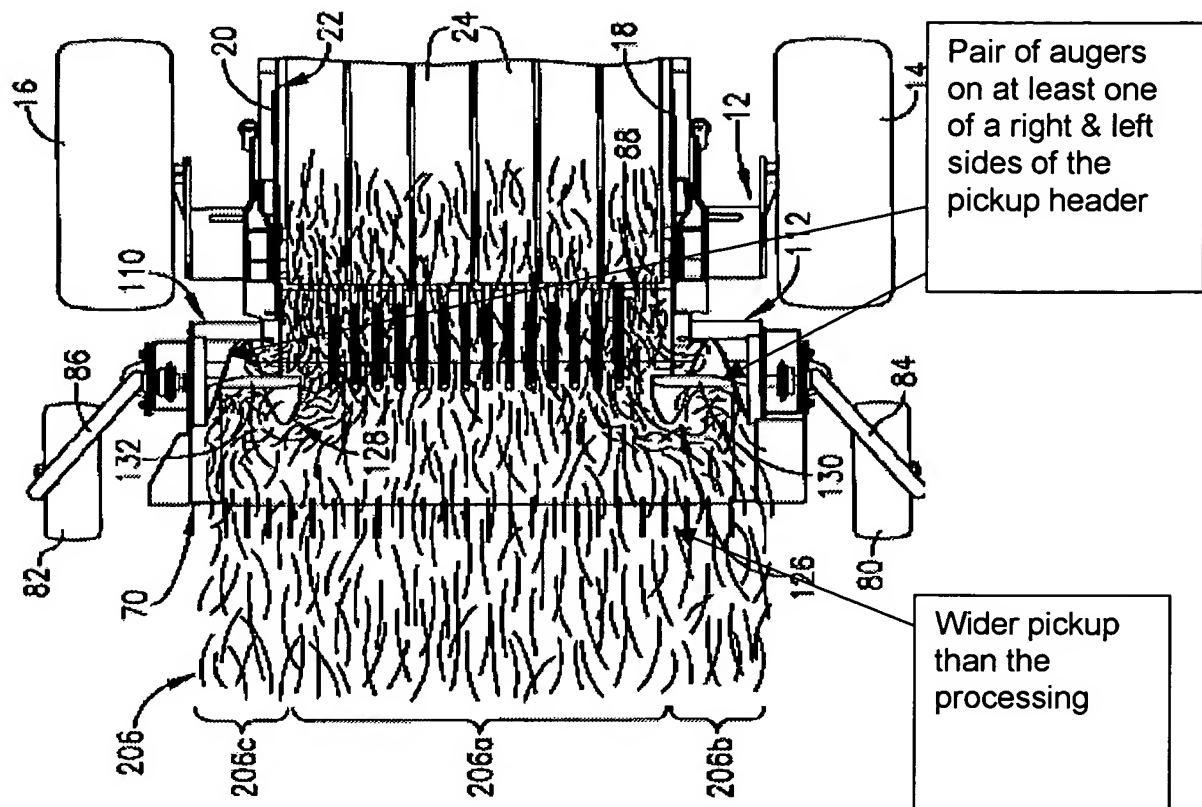
2. Claims 1, 8, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Ratzlaff et al (6029434).

In re claim 8. An apparatus for crop processing having a processing width defined by a distance between a left side and a right side of a processing unit, the apparatus comprising:

(a) a pickup header that is wider than said processing width (see fig 4 below);
and

(b) a pair of augers on at least one of a right side and a left side of the pickup header to move crop material laterally (see marked up fig below).

In re claim 16: wherein the apparatus for crop processing is a large round baler (see fig. 1 & 5).

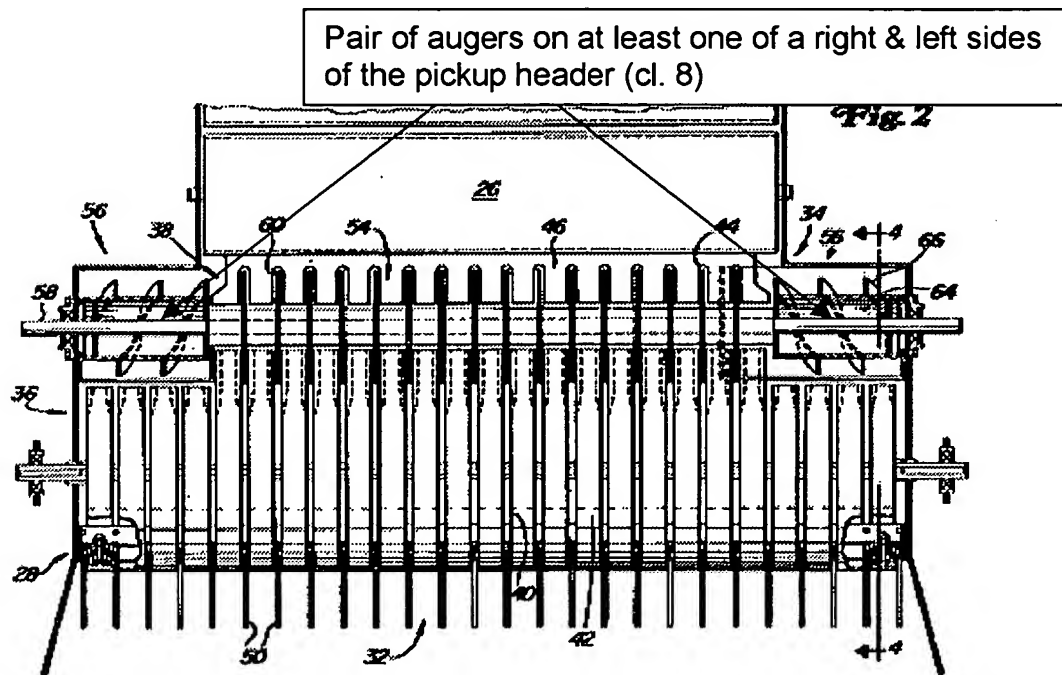


As applied to claim(s) 1, in view of the structure disclosed/taught by Ratzlaff, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

Art Unit: 3671

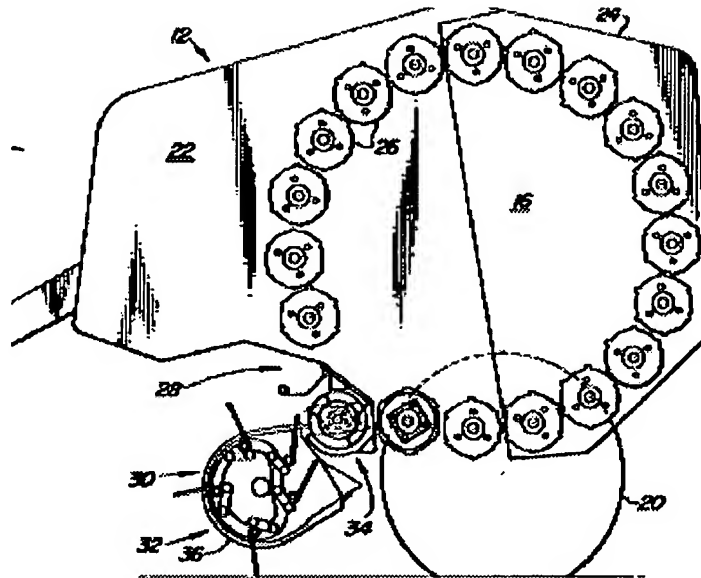
3. Claims 1, 8, 15, 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Engel et al (5848523).

Applicant introduced new limitation of **not** having a gauge wheel to support the pickup header, accordingly, although this feature is well known in the art, as an example, Engel anticipates this feature:



Art Unit: 3671

as shown below, there is no gauge wheel is being used (cl. 15, 17)



As applied to claim(s) 1, 17, in view of the structure disclosed/taught by Engel, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7, 8, 14, 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Grahl et al (6601375).

As shown in fig 2, pair of augers on at least one of a right & left sides of the pickup header (4 augers are shown, two on each side), which are driven at different rotational speeds (the upper & lower are driven at different speeds; see

Art Unit: 3671

fig 5, the sprockets are of different size, and their driven in different rotational direction, for these 2 reasons the speeds are different).

As applied to claim(s) 1, 7, in view of the structure disclosed/taught by Grahl, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

Claim Rejections - 35 USC § 103

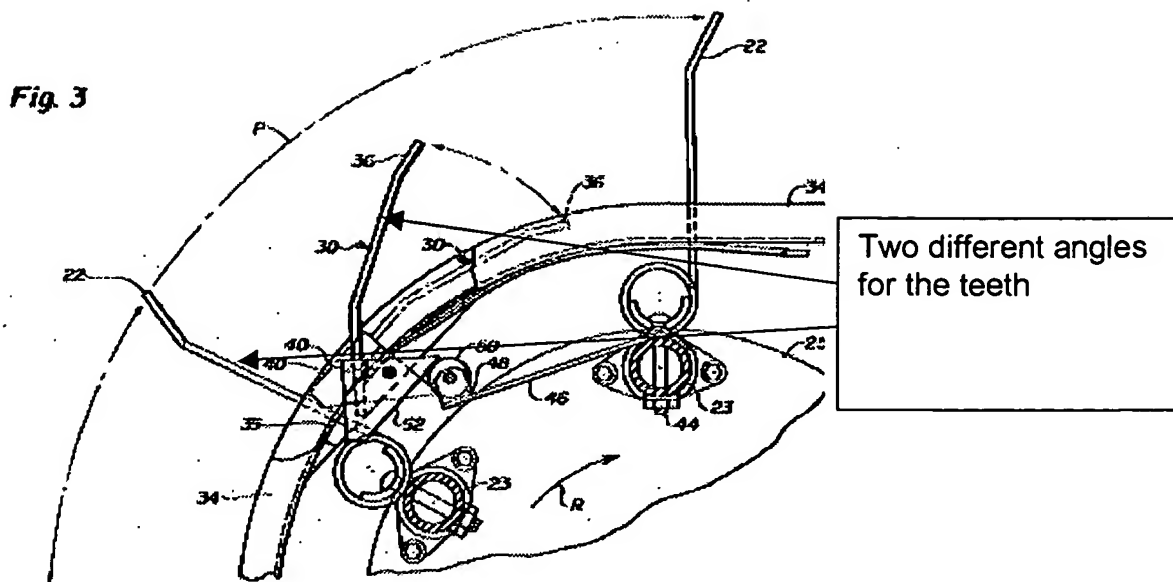
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-6, 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratzlaff et al (6029434) OR Engel et al (5848523) OR Grahl et al (6601375), in view of Bohman et al (4929904).

It is noted that Ratzlaff or Grahl or Bohman each individually teaches the claimed features except for showing the design choice for the teeth as claimed.

Bohman shows on fig . below that a pickup header can have two different designs.



It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the teeth of Ratzlaff or Grahl or Bohman having a rigidity claimed, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin* , 125 USPQ 416.

It would have been obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to make some of the teeth shaped differently at angle as Bohman shows above, in order to better be able to pickup crop with different lengths.

Ratzlaff or Grahl or Bohman prior art discloses the claimed invention except for arranging the teeth at a specific location on the pickup header. It would have been obvious to one having ordinary skill in the art at the time the invention was

Art Unit: 3671

made to arrange the teeth with different design under the conveyors, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

As applied to claim(s) 2-6, in view of the structure disclosed/taught by Ratzlaff or Grahl or Bohman as modified by Bohman, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

Response to Arguments

6. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

As indicated in the rejections presented above, the Applicant provided amendments to claims which required further evaluation & search. Examiner would like to point out in re Applicant's remarks on page 5, that in claim 1 & 8, it is recited that "a pair of augers on at least one of a right side **and** a left side of the pickup header" and the Examiner points to that feature is met as understood to be recited in newly amended claim. Therefore, in at least two of the references, pair of augers are shown, on both right and left side. The claims recites "at least ..." which is interpreted that the augers can be on two sides.

Although, the Examiner also provided another reference (Gahl) which shows four augers, wherein there are two augers on the left side and two augers on the right sides. Examiner would further would like to point out that Drummond (3412535) also shows number of augers provided on either sides of a pickup header and further having different speeds due to the sprocket size.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory

Art Unit: 3671

action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Drummond.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK